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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,151	06/30/2000	Shinichi Nakayama	520.38682X00	9853

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EXAMINER

ELAMIN, ABDELMONIEM I

ART UNIT PAPER NUMBER

2182

DATE MAILED: 07/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

PD

# Office Action Summary

Application No.  
**09/608,151**

Applicant(s)  
**Nakayama et al**

Examiner  
**Abdelmoniem Elamin**

Art Unit  
**2182**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 18, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 7-20 are subject to restriction and/or election requirement

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Election/Restriction*

**I.** Restriction to one of the following inventions is required under 35 U.S.C. 121:

**I** Claims 7, 11-15 drawn to: monitoring operating status of a control processor and upon detection of stopped state updating a logical unit number so as another control processor may take over processing of the stopped processor , classified in class 364, subclass 200.

**II.** Claims 9, 16-20, drawn to counting the number of processed input/output requests, updating logical unit numbers so as to average the count of processed input/output requests between control processors , classified in class 711, subclass 114.

**2.** The inventions are distinct, each from the other because of the following reasons:

Inventions **I and II** are disclosed as different combinations which are not connected in design, operation, or effect. These combinations are independent if it can be shown that: (1) they are not disclosed as capable of use together, (2) they have different modes of operations, (3) they have different functions, or (4) they have different effects (MPEP 806.04, MPEP 808.01). In the instant case the combinations perform different functions and have different effect which are not connected in operation or effect.

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3. A telephone call was made to Mr. Carl I. Brundidge on *June 26, 2003* to request an oral election to the above restriction requirement, but did not result in an election being made.

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelmoniem I. Elamin whose telephone number is (703) 305-3804. The examiner can normally be reached Monday through Friday from 9:30 AM to 6:00 PM.

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (703)308-3301.*

*Any inquiry of a general nature relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)305-3900.*

*Any response to this action should be mailed to:*

*Commissioner of Patents and trademarks*

*Washington, D.C. 20231*

*Or faxed to:*

*(703) 746-7239 (Official)*

*(703) 746-7240 (Non-Official/Draft)*

*(703) 746-7238 (After-final)*

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*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA,  
Forth Floor (receptionist).*

*212*  
*Respectively submitted*

*Abdelmoniem Elamin*

*June 27, 2003*